

IN RE: PETITION FOR ZONING VARIANCE
SM/S Wesley Avenue, 583 ft.
from N/S of Edmondson Avenue
122 Wesley Avenue
1st Election District
1st Councilmanic District
Najib Baha Amin
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 91-485-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance from Sections 1802.3-C.1 and 301.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a setback of 2 ft. in lieu of the required 7.5 ft. for an open projection (carport), as more particularly described on Petitioners' Exhibit No.1.

The Petitioners originally filed their request through the administrative variance procedure. By order of the Deputy Zoning Commissioner, a public hearing was required to determine the appropriateness of the relief requested.

The Petitioners, Najib Baha Amin and Mannan Zakia Amin, appeared and testified. There were no Protestants.

Testimony indicated that the subject property, known as 122 Wesley Avenue, consists of 5023 sq.ft. +/-, zoned D.R.5.5 and is improved with a single family dwelling.

The Petitioners testified that they are desirous of constructing a carport to provide shelter for their vehicles and protection during cold and inclement weather.

Testimony indicated the relief requested will not result in any detriment to the health, safety or general welfare of the surrounding community. In further support of their request, Petitioners submitted a letter from the adjoining affected property owners indicating they have no

objections to their plans.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioners must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 38 (1974).

It is clear from the testimony that if the variance is granted in part, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public health, safety, and general welfare.

However, in the opinion of the Deputy Zoning Commissioner, it is not necessary for the Petitioners to erect the carport that is only 2 feet from the property line. Accordingly, a variance will be granted, however, that variance will be for a setback of 5 feet in lieu of the requested 2 feet from the neighboring property line.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted in part.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 26th day of Sept., 1991 that the Petition for Zoning Variance from Sections 1802.3.C.1 and 301.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a setback of 2 ft. in lieu of the required 7.5 ft. for an open projection (carport), in accordance with Petitioners' Exhibit No. 1, be and is hereby DENIED; and,

IT IS FURTHER ORDERED that a Zoning Variance from Sections 1802.3.C.1 and 301.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a setback of 5 ft. in lieu of the required 7.5 ft. for an open projection (carport), be and is hereby GRANTED, subject, however, to the following restrictions:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
- 2) The Petitioners shall not be allowed to install any enclosures to the proposed carport.
- 3) Upon request and reasonable notice, Petitioners shall permit a representative of the Zoning Enforcement Division to make an inspection of the subject property to insure compliance with this Order.
- 4) When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

TIMOTHY M. KOTROCKO
Deputy Zoning Commissioner
for Baltimore County

TMK:mmn
cc: Peoples Counsel

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

September 18, 1991

Mr. and Mrs. Najib Baha Amin
122 Wesley Avenue
Baltimore, Maryland 21228

RE: PETITION FOR ZONING VARIANCE
Case No. 91-485-A

Dear Mr. & Mrs. Amin:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been granted in part, in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3391.

Very truly yours,

TIMOTHY M. KOTROCKO
Deputy Zoning Commissioner
for Baltimore County

TMK:mmn
cc: Peoples Counsel

PETITION FOR RESIDENTIAL VARIANCE

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

91-485-A

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, petition for a Variance from Section

1802.3C.1 and 301.1 to allow a setback of 2' in lieu of the required 7.5' for an

open project (carport).

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons (indicate hardship or practical difficulty): The carport will provide shelter for my vehicles and for my family from the vehicles to the house during cold and inclement weather. To build it at another sight on the property would substantially reduce useable yard space and require the uprooting and relocation of valuable plants and shrubs.

Property is to be advertised and/or posted as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of the above Variance posting and, if necessary, advertising, upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalty of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Witness my hand and seal:

Signature of Petitioner:

Name of Petitioner:

Address:

City/State/Zip Code:

Telephone Number:

Signature of Petitioner:

Name of Petitioner:

Address:

City/State/Zip Code:

Telephone Number:

Legal Owner(s):

Najib Baha Amin

Mannan Zakia Amin

122 Wesley Avenue

Baltimore, Maryland 21228

410/744-5259

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AFFIDAVIT

IN SUPPORT OF RESIDENTIAL ZONING VARIANCE

91-485-A

The undersigned hereby affirms under the penalties of perjury to the Zoning Commissioner of Baltimore County, as follows:

That the information herein given is within the personal knowledge of the Affiant(s) and Affiant(s) is/are competent to testify thereto in the event that a public hearing is scheduled in the future with regard thereto.

That the Affiant(s) does/do presently or upon settlement will reside at

122 Wesley Avenue, Baltimore, Maryland 21228
(Address)

That based upon personal knowledge, the following are the facts upon which I/we base the request for a Residential Zoning Variance at the above address: (Indicate hardship or practical difficulty)

Request permission to build a carport, 32'x24', from the side of my house to

the edge of the driveway. The driveway is 22' wide, and with the roof over-

hang, the carport will extend to within 3' of the property line. I also

want to build a tool shed at the end of the carport to avoid erecting a structure

in the yard, thus depriving me of valuable lawn space.

That Affiant(s) acknowledge(s) that if protest is filed, Affiant(s) will be required to pay a

representing and advertising fee and may be required to provide additional information.

Signature of Affiant(s):

Najib Baha Amin

Mannan Zakia Amin

122 Wesley Avenue

Baltimore, Maryland 21228

410/744-5259

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SPELLMAN, LARSON
& ASSOCIATES, INC.

DESCRIPTION FOR A VARIANCE TO ZONING, 122 WESLEY AVENUE,
1ST DISTRICT, BALTIMORE COUNTY, MARYLAND

Page 1

Beginning for the same at a point on the southwest side of Wesley Avenue, 60 feet wide, at the distance of 582.69 feet measured northwesterly along the southwest side of Wesley Avenue from the north side of Edmondson Avenue and running thence and binding on the southwest side of Wesley Avenue North 38 Degrees 42 Minutes 40 Seconds West 49.00 feet thence leaving the southwest side of Wesley Avenue and running South 51 Degrees 17 Minutes 20 Seconds West 102.50 feet South 38 Degrees 42 Minutes 40 Seconds East 49.00 feet and North 51 Degrees 17 Minutes 20 Seconds East 102.50 feet to the place of beginning.

containing 0.115 acres of land, more or less.



CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: _____ Date of Posting: _____
Posted for: _____
Petitioner: _____
Location of property: _____
Location of Sign: _____
Remarks: _____
Posted by: _____ Date of return: _____
Number of Signs: _____

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: _____ Date of Posting: _____
Posted for: _____
Petitioner: _____
Location of property: _____
Location of Sign: _____
Remarks: _____
Posted by: _____ Date of return: _____
Number of Signs: _____

NOTICE OF HEARING
The Zoning Commission of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:
Case Number: 91-485-A
SW/S Wesley Avenue, 583' From N/S of Edmondson Avenue
122 Wesley Avenue
1st Election District - 1st Councilmanic
Petitioner(s): Najib and Menna Amin
Hearing Date: Tuesday, Sept. 17, 1991 at 9:00 a.m.
Variance: To allow a setback of 20' in lieu of the required 7.5 ft. for an open project (carport).
Zoning Commissioner of Baltimore County
C/O 164 August 15

CERTIFICATE OF PUBLICATION

THIS IS TO CERTIFY, that the annexed advertisement was published in the CATONSVILLE TIMES, a weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 8/15/91.

CATONSVILLE TIMES

S. Zeke Orlan
Publisher

\$ 52.60

CERTIFICATE OF PUBLICATION

TOWSON, MD., 8/15/91

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 8/15/91.

THE JEFFERSONIAN.

S. Zeke Orlan
Publisher

\$ 52.60

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Account: R-001-6150
Number

Date: 8/15/91

H9100696

PUBLIC HEARING FEES	QTY	PRICE
010 -ZONING VARIANCE (IRL)	1 X	\$35.00
060 -POSTING SIGNS / ADVERTISING	1 X	\$25.00
TOTAL:		\$60.00

LAST NAME OF OWNER: AMIN

04404#0082NICHRC
PR-0009:54AM06-18-91 \$60.00

Please Make Checks Payable To: Baltimore County

Cashier Validation

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Account: R-001-6150
Number

Date: 8/15/91

Receipt

Please Make Checks Payable To: Baltimore County

Cashier Validation

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

DATE: 8/20/91

Najib Baha and Menna Zakia Amin
122 Wesley Avenue
Baltimore, Maryland 21228

RE:
Case Number: 91-485-A
SW/S Wesley Avenue, 583' From N/S of Edmondson Avenue
122 Wesley Avenue
1st Election District - 1st Councilmanic
Petitioner(s): Najib and Menna Amin
HEARING: TUESDAY, SEPTEMBER 17, 1991 AT 9:00 a.m.

Dear Petitioner(s):

Please be advised that \$ 77.60 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please make your check payable to Baltimore County, Maryland. Bring the check and the sign & post set(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland fifteen (15) minutes before your hearing is scheduled to begin.

J. Robert Haines

ZONING COMMISSIONER
BALTIMORE COUNTY, MARYLAND

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

JULY 26, 1991

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Case Number: 91-485-A
SW/S Wesley Avenue, 583' From N/S of Edmondson Avenue
122 Wesley Avenue
1st Election District - 1st Councilmanic
Petitioner(s): Najib and Menna Amin
HEARING: TUESDAY, SEPTEMBER 17, 1991 AT 9:00 a.m.

Variance to allow a setback of 2 ft. in lieu of the required 7.5 ft. for an open project (carport).

J. Robert Haines

Zoning Commissioner of
Baltimore County

cc: Amin

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

August 8, 1991

Mr. & Mrs. Najib Baha Amin
122 Wesley Avenue
Baltimore, MD 21228

RE: Item No. 496, Case No. 91-485-A
Petitioner: Najib Baha Amin, et ux
Petition for Residential Variance

Dear Mr. & Mrs. Amin:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very truly yours,

James E. Dyer
Chairman
Zoning Plans Advisory Committee

JED:jw

Enclosures

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

Your petition has been received and accepted for filing this 18th day of June, 1991.

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER

Received By:

James E. Dyer
Chairman
Zoning Plans Advisory Committee

Petitioner: Mr. & Mrs. Najib Baha Amin, et ux

Petitioner's Attorney:

91-485 A 12th

BALTIMORE COUNTY, MARYLAND INTEROFFICE CORRESPONDENCE

TO: Zoning Advisory Committee DATE: July 3, 1991

FROM: Robert W. Bowling, P.E.

RE: Zoning Advisory Committee Meeting
for July 2, 1991

The Developers Engineering Division has reviewed the subject zoning items and we have no comments for Items 407-revised, 492, 494, 496, 497, 499, 500, 501, 502 and 503.

For Items 429-revised, a County Review Group Meeting is required.

For Item 272 (Case No. 90-434-SFHA), the previous County Review Group Meeting Comments are still applicable.

For Item 493, a 5-foot widening strip is requested for the ultimate 50-foot right-of-way width of Railroad Avenue.

For Item 495, no permanent structures are allowed within the limits of Baltimore County drainage and utility easements.

For Item 498, a County Review Group Meeting is required. In addition, the following highway comments are provided:

Red Lion Road is an existing road, which shall ultimately be improved as a 40-foot street cross-section on a 60-foot right-of-way.

The Developer's responsibilities along the existing frontage of this site shall be as follows:

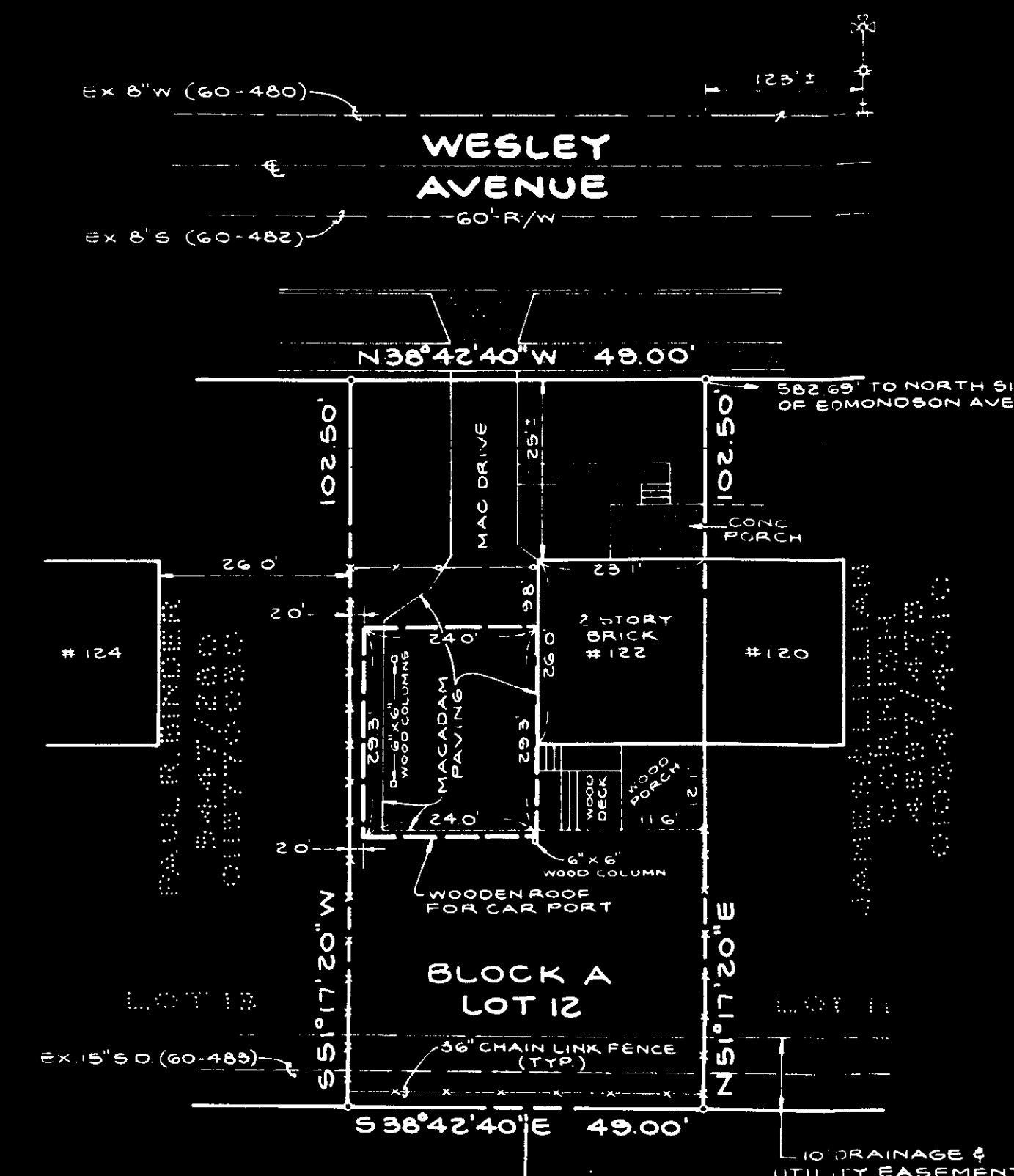
- The submission of detailed construction drawings to extend a minimum distance of 200 feet beyond the limits of the site, or as may be required to establish line and grade.

Zoning Advisory Committee Meeting July 2, 1991
Page 2

- The submission of full cross-section as deemed necessary for design and/or construction purposes. The sections are to be taken at 25-foot intervals and are to be shown on standard cross-section paper at 1"=5' horizontal to 1"=5' vertical scale.
- The preparation of the right-of-way plat for, and the dedication of any widening and slope easements at no cost to the County.
- The preparation of the right-of-way plat for any offsite road rights-of-way required to make the necessary improvements. Baltimore County will attempt to acquire the right-of-way at the Developer's expense.
- The grading of the widening and the existing road to the established grade. Where adjacent properties are adversely affected by the improvements, the Developer shall be financially responsible for the necessary repairs to these properties.
- The relocation of any utilities or poles as required by the road improvements.
- The construction of combination curb and gutter in its ultimate location and a maximum of 23.5 feet of paving adjacent thereto along the frontage of the property. The paving thickness shall conform with Baltimore County standards.

Robert W. Bowling
ROBERT W. BOWLING, P.E., Chief
Developers Engineering Division

RWB:s



SITE DATA

BALTO CO COUNCIL DISTRICT 1
PRESENT ZONING: D R S S (MAP SW 2F)
EXISTING USE: RESIDENTIAL
LOT AREA: 5023 S.F.:
PARCEL 101
GRID I
PARCEL 23
ADDITION TO AND RESUBDIVISION OF SECTION 1
REGENT PARK PLAT BOOK W.J.R. NO 27, FIDELITY
BLOCK A, LOT 12
DEED G129/454
PROPERTY NO 0110452100
OWNERS: NAJIB BAHAI & MANNAN AMIN
PUBLIC SEWER IS PROVIDED
PUBLIC WATER IS PROVIDED
PROPERTY IS NOT LOCATED IN THE CHESAPEAKE
BAY CRITICAL AREA
PRIOR ZONING HEARINGS: NONE

496

Petitioners Ex #3

91-485-A

[illegible]

**SPELLMAN, LARSON
&
ASSOCIATES, INC.**
CIVIL ENGINEERS AND LAND SURVEYORS
SUITE 107, JEFFERSON BLDG., TOWSON, MD., 2120
PHONE 823-3535

PREPARED FOR :
NAJIB BAHAMIN
122 WESLEY AVENUE
BALTIMORE, MD 21220
PH 301 741 5250

PLAT TO ACCOMPANY PETITION FOR
ZONING VARIANCE

122 WESLEY AVE

1ST ELECTION DISTRICT BALTO.CO., M

SCALE: 1" = 20' DES. BY: N/A SHT. 1 OF 1

91018

SCALE	LOCATION	SHEET
1" = 200' ±	CATONSVILLE	SW
DATE OF PHOTOGRAPHY JANUARY 1986		2-F

91-485-A

SPELLMAN, LARSON
16606 INC

122 WESLEY AVE
91018

1" = 200' S
PREPARED BY AIR PHOTOGRAPHICS, INC.
MARTINSBURG, W. V. 25401

496

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING PHOTOGRAPHIC MAP